



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch
CEPOA-CO-R
Post Office Box 6898
Elmendorf AFB, Alaska 99506-0898

PUBLIC NOTICE DATE: 5 June 2006
EXPIRATION DATE: 5 July 2006
REFERENCE NUMBER: POA-2006-931-1
WATERWAY: Kenai Lake

Interested parties are hereby notified that an application has been received for a Department of the Army permit for certain work in waters of the United States as described below and shown on the attached plan.

APPLICANT: Alaska Railroad Corporation, Post Office Box 107500, Anchorage, Alaska 99501-7500, Contact Barbara C. Hotchkin, Manager, Project Permits and NEPA; phone (907) 265-2313.

LOCATION: The proposed project is located within sections 25, 36, T. 4 N., R. 1 W., and section 31 T. 4 N., R. 1 E., and sections 6, 7, and 18, T. 3 N., R. 1 E., Seward Meridian; beginning point: Latitude 60.4009° N., Longitude 149.3600° W.; This project runs all along the east side of Kenai Lake, near Seward, Alaska.

PURPOSE: Maintain the integrity of the railroad embankment.

WORK: Place approximately 1,200 cubic yards of class II riprap, fill, topsoil, vegetation, and some large rock. These materials will be placed into approximately 0.5 acres of the waters of Kenai Lake.

ADDITIONAL INFORMATION: The proposed work is to be done along the east side of Kenai Lake. This area has been a perennial problem, with permits being required to repair the area on several occasions. The total length of the work areas combined is 5,100 feet with approximately 0.2 cubic yards of fill (riprap) being placed below the ordinary-high-water line per linear foot. The railroad is trying to create a slightly wider base for its ballast, and stabilize the toe of the slope. This will give the rail-bed more stability over the long run, allowing trains to move in the area with somewhat less caution. The Corps of Engineers is extending jurisdiction on this project based solely on Section 10 of the Harbors and Rivers Act.

MITIGATION: No mitigation has yet been agreed on.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: The latest published version of the Alaska Heritage Resources Survey (AHRS) has been consulted for the presence or absence of historic properties, including those listed in or eligible for inclusion in the National Register of Historic Places. There are no listed or eligible properties in the vicinity of the worksite. Consultation of the AHRS constitutes the extent of cultural resource investigations by the District Engineer at this time, and he is otherwise unaware of the presence of such resources. This application is being coordinated with the State Historic Preservation Office (SHPO). Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between the Federal government and Federally recognized Tribes. This notice invites participation by agencies, Tribes, and members of the public in the Federal decision-making process. In addition, Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Engineer during the public comment period.

ENDANGERED SPECIES: Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS).

We have determined that the described activity within the proposed area will not adversely affect EFH, including anadromous fish and federally managed fishery resources.

SPECIAL AREA DESIGNATION: None.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact **Irvin T. Joy** at (907) 753-2712, toll free from within Alaska at (800) 478-2712, or by email at **Irvin.t.joy@poa02.usace.army.mil** if further information is desired concerning this notice.

AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Perform work in or affecting navigable waters of the United States -
Section 10 Rivers and Harbors Act 1899 (33 U.S.C. 403).

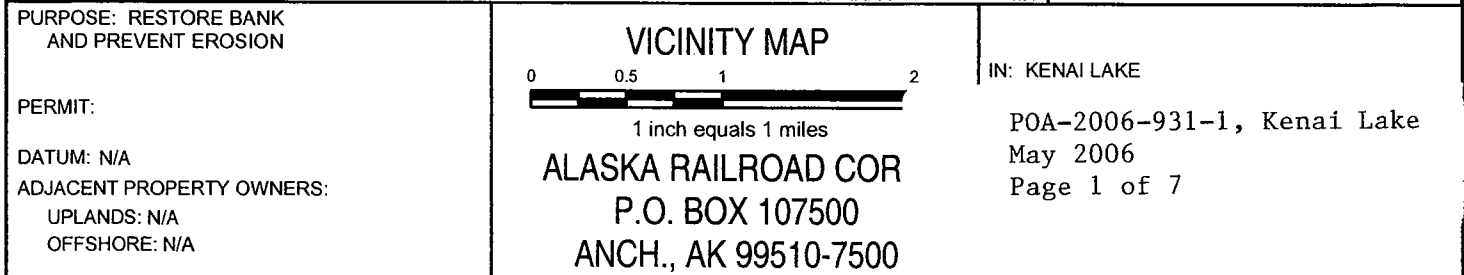
() Discharge dredged or fill material into waters of the United States -
Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

- (X) Transport dredged material for the purpose of dumping it into ocean waters - Section 103 Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413). Therefore, our public interest review will consider the criteria established under authority of Section 102(a) of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (40 CFR Parts 220 to 229), as appropriate.

A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments



NOTE: U.S.G.S. QUADRANGLE
SEWARD B-7

OFFSHORE: N/A

ANCH., AK 99510-7500

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REV.:

MP25

MP24

MP23

MP22

MP21

MP20

MP19

MP18

MP17

MP16

**PROJECT
LOCATION**

NOTE: U.S.G.S. QUADRANGLE
SEWARD B-7

PURPOSE: RESTORE BANK
AND PREVENT EROSION

PERMIT:

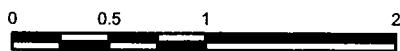
DATUM: N/A

ADJACENT PROPERTY OWNERS:

UPLANDS: N/A

OFFSHORE: N/A

1998 AERIAL PHOTO



1 inch equals 1 miles

ALASKA RAILROAD CORP

P.O. BOX 107500

ANCH., AK 99510-7500

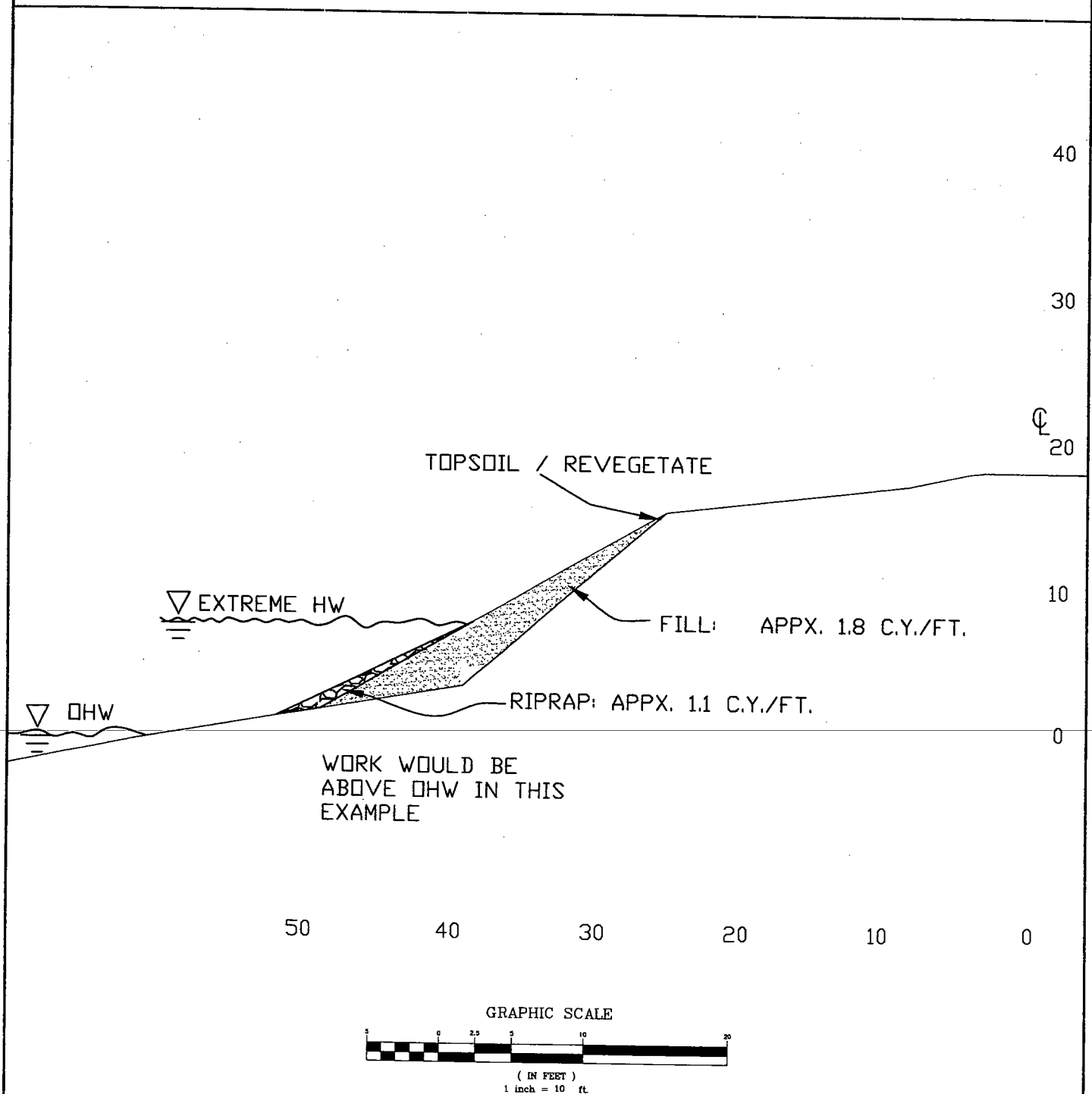
IN: KENAI LAKE

POA-2006-931-1, Kenai Lake
May 2006

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REV.:

MILEPOST 20.92 EXAMPLE OF SLOPE FLATTENING METHOD B



PURPOSE: RESTORE BANK
AND PREVENT EROSION

PERMIT:

DATUM: N/A

ADJACENT PROPERTY OWNERS:

UPLANDS: N/A

OFFSHORE: N/A

PLAN VIEW - MP 20.92

ALASKA RAILROAD C
P.O. BOX 10750C
ANCH. AK 99510-7

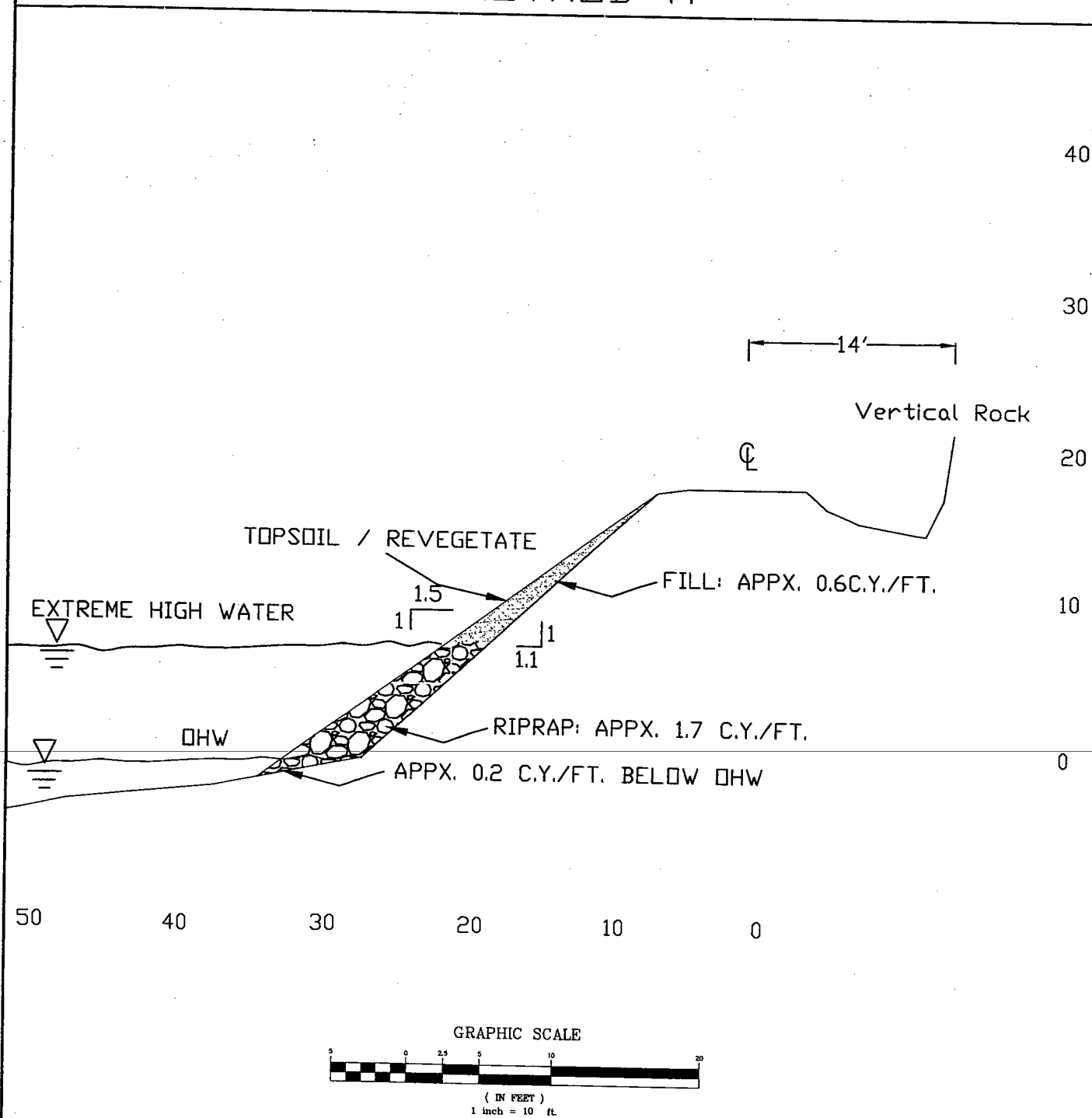
IN- KENAI LAKE

POA-2006-931-1, Kenai Lake
May 2006

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REV.:

MILEPOST 20.48 EXAMPLE OF RIPRAP TO HIGH WATER METHOD A



PURPOSE: RESTORE BANK
AND PREVENT EROSION

PERMIT:

DATUM: N/A

ADJACENT PROPERTY OWNERS:

UPLANDS: N/A

OFFSHORE: N/A

PLAN VIEW - MP 20.48

ALASKA RAILROAD C
P.O. BOX 10750C
ANCH. AK 99510-7

IN: KENAI LAKE

POA-2006-931-1, Kenai Lake

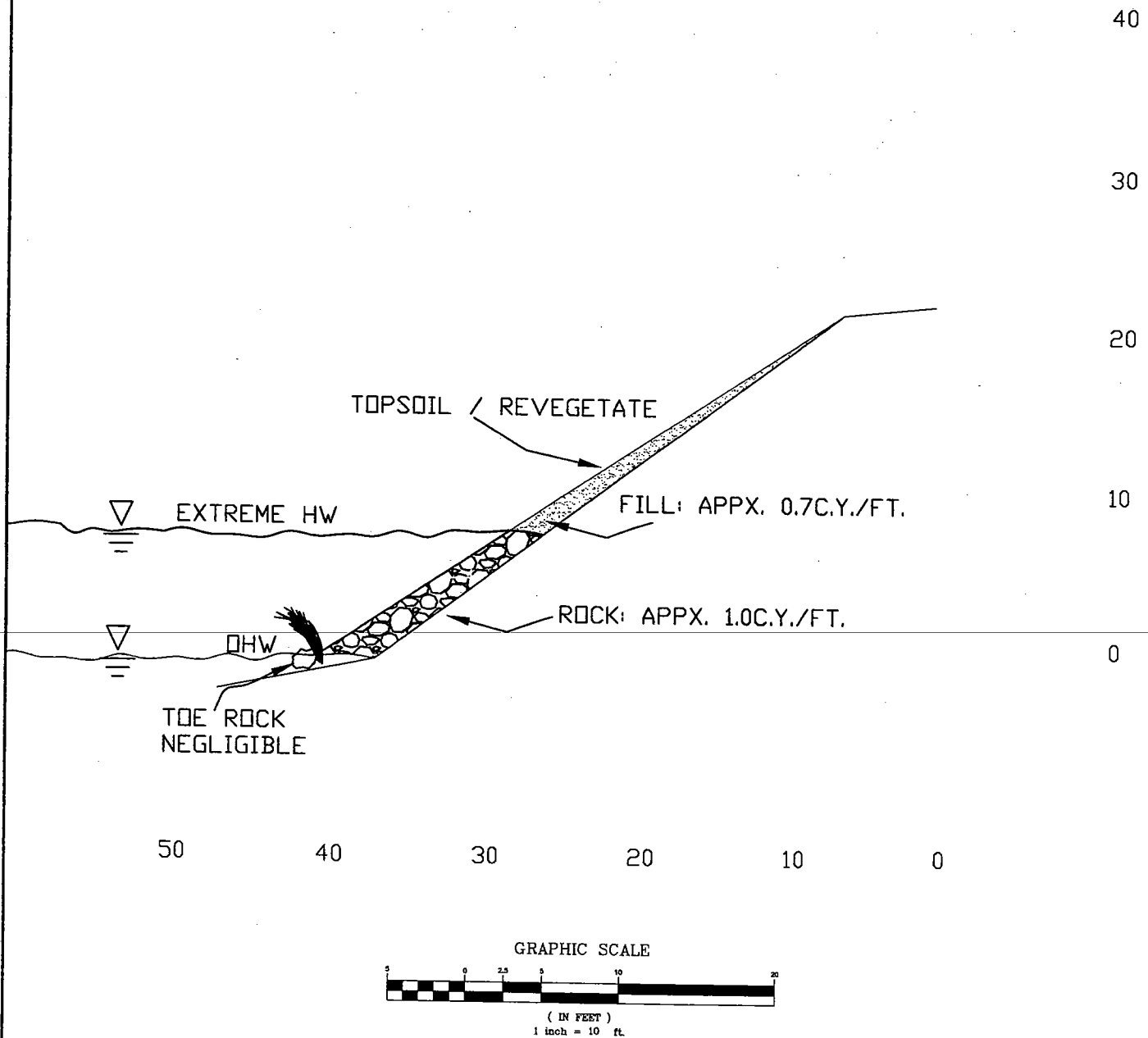
May 2006

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REV.:

MILEPOST 20.56

EXAMPLE OF LIVE SILTATION WITH SLOPE PROTECTION AS REQUIRED METHOD C



PURPOSE: RESTORE BANK
AND PREVENT EROSION

PERMIT:

DATUM: N/A

ADJACENT PROPERTY OWNERS:

UPLANDS: N/A

OFFSHORE: N/A

PLAN VIEW - MP 20.56

ALASKA RAILROAD C
P.O. BOX 10750C
ANCH. AK 99510-7

IN: KENAI LAKF

POA-2006-93101, Kenai Lake

May 2006

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REV.:

Public reporting burden for this collection of information is estimated to average 5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Please DO NOT RETURN your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

PRIVACY ACT STATEMENT

Authority: 33 USC 401, Section 10; 1413, Section 404. Principal Purpose: These laws require permits authorizing activities in, or affecting, navigable waters of the United States, the discharge of dredged or fill material into waters of the United States, and the transportation of dredged material for the purpose of dumping it into ocean water. Routine Uses: Information provided on this form will be used in evaluating the application for a permit. Disclosure: Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can a permit be issued.

One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)

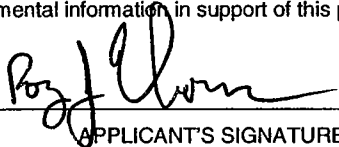
1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
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(ITEMS BELOW TO BE FILLED BY APPLICANT)

5. APPLICANT'S NAME Alaska Railroad Corporation (ARRC)	8. AUTHORIZED AGENT'S NAME AND TITLE (an agent is not required) Barbara Hotchkin Manager, Project Permits and NEPA, ARRC
6. APPLICANT'S ADDRESS P.O. Box 107500 Anchorage, Alaska 99510	9. AGENT'S ADDRESS P.O. Box 107500 Anchorage, Alaska 99510
7. APPLICANT'S PHONE NOS. W/AREA CODE a. Residence N/A b. Business (907) 265-2520	10. AGENT'S PHONE NOS. W/AREA CODE a. Residence N/A b. Business (907) 265-2313

11. STATEMENT OF AUTHORIZATION

I hereby authorize, Barbara Hotchkin to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.



APPLICANT'S SIGNATURE

5-23-06

DATE

NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY

12. PROJECT NAME OR TITLE (see instructions) Kenai Lake Bank Stabilization	
13. NAME OR WATERBODY, IF KNOWN (if applicable) Kenai Lake	14. PROJECT STREET ADDRESS (if applicable) Not Applicable
15. LOCATION OF PROJECT Kenai Peninsula Borough AK COUNTY STATE	
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN, (see instructions) All on USGS Quadrangle Map Seward B-7 Township 4 North; Range 1 West; Section 25, 36; Seward Meridian Township 4 North; Range 1 East; Section 31; Seward Meridian Township 3 North; Range 1 East; Section 6, 7, 18; Seward Meridian	

17. DIRECTIONS TO THE SITE

ARRC Milepost 20 to 23.1 along Kenai Lake, only access to most areas is by railroad track or boat

This project involves bank restoration and protection, as needed, between ARRC Miles 20 and 23.1 to repair damage to the railroad embankment from erosion along Kenai Lake. Portions of this area were previously permitted for erosion under emergency permits in 2000, 2002, and 2003. An Alternatives Analysis (attached) was prepared and submitted to permit agencies in Feb. 2006 assessing the problem and potential solutions. Our proposal is based on the Alternatives Analysis and a meeting with agency representatives. See the attached table detailing the locations and proposed repair methods at each location along with the calculated impacts at each location. This project will not be completed in total at this time, but as funding is available, priority areas will be repaired. The proposed activities will occur entirely within the existing ARRC right-of-way. See the attached location map, aerial photo, drawing, and representative photos.

To maintain the integrity of the railroad embankment.

USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

To repair damage and restore the railroad embankment from wind, wave, and ice-induced erosion damaged along Kenai Lake.

Class II riprap, fill, topsoil, vegetation, and some large rock
See the attached table and drawings for approximate quantities at each location.

Approximately 5,100 linear feet of bank work, involving impacts to 0.5 acres of waterbody affected over the long term. See the attached table for the length of each area and the area of impacts proposed below ordinary high water for each repair location.

24. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (If more than can be entered here, please attach a supplemental list).

All work will be within railroad right-of-way.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
ADNR	Coastal Project Questionnaire		Concurrently		
Kenai River Center	Multi-Agency Permit Application (Flood, Parks, Fish)		Concurrently		
SHPO	Section 106		10/29/03	11/13/03	

*Would include but is not restricted to zoning, building and flood plain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess that authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

applicant.


SIGNATURE OF APPLICANT

5-23-06
DATE

Barbara Cholecki 5/23/06
SIGNATURE OF AGENT DATE

The application must be signed by the person who desired to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statement or writes or causes to be written, or publishes any false, fictitious or fraudulent writing or document knowing same to contain any false, fictitious or fraudulent statement or writing, shall be fined not more than \$10,000 or imprisoned not more than five years or both.

POA-2006-931-1, Kenai Lake
May 2006
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FRANK H. MURKOWSKI, GOVERNOR

STATE OF ALASKA

OFFICE OF THE GOVERNOR

**DEPARTMENT OF NATURAL RESOURCES
OFFICE OF PROJECT MANAGEMENT AND PERMITTING**

ALASKA COASTAL ZONE MANAGEMENT
550 WEST 7TH AVENUE, SUITE 1660
ANCHORAGE, ALASKA 99501-3568

**NOTICE OF APPLICATION
FOR
CERTIFICATION OF CONSISTENCY WITH THE
ALASKA COASTAL MANAGEMENT PROGRAM**

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. **POA-2006-931-1 Kenai Lake**, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

The Office of Project Management and Permitting requests your comments, particularly on the proposed project's consistency with the affected local coastal district management program. For more information on the consistency review contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.

Attachment #1